Filed 3/26/19 In re G.P.-B. CA1/1

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re G.P.-B., a Person Coming Under the Juvenile Court Law.	
ALAMEDA COUNTY SOCIAL SERVICES AGENCY, Plaintiff and Respondent, v. M.B., Defendant and Appellant.	A153976 (Alameda County Super. Ct. No. JD-026915-01)

M.B. (Mother) challenges the juvenile court's termination of her parental rights to her son, G.P.-B. She alleges that respondent, the Alameda County Social Services Agency (Agency), failed to conduct a home assessment for an out-of-state relative seeking placement of the child, a request that was made three weeks before termination of reunification services. Mother contends the juvenile court was required to give preference to placement of G.P.-B. with a relative and should not have terminated her parental rights without resolving this placement request. She does not otherwise challenge the merits of the order terminating the parental relationship. We conclude Mother lacks standing to challenge the court's failure to consider her request for preferential relative placement because resolution of that question would have no bearing on the termination of her parental rights. Accordingly, we will dismiss her appeal.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY[1]

I. Pretermination Proceedings

"On June 29, 2016, L.A. (age three at the time) was taken to San Leandro Hospital with serious physical trauma. She was subsequently transferred to UCSF Benioff Children's Hospital Oakland. Her exams revealed she had suffered significant injuries, including a subdural hematoma. She also had old bruises to the front and back of her body, as well as additional injuries. She spent a total of eight days in the hospital." (*M.B. v. Superior Court, supra,* A152742.)

"On June 30, 2016, minors R.G.-B. ([then] age 5), E.G.-B. (age 3) and G.P.-B. (age 1)[2] were placed in protective custody by the Oakland Police Department. Law enforcement determined Mother was not able to provide proper care for the children after the minors witnessed the physical abuse of their half sibling L.A. (age 3) by Mother and their stepfather, G.P. Additionally, the home where the minors lived was deemed 'filthy,' in that there was limited food available and much of the food was stale or too old to eat. The home had a distinctive urine smell, and garbage and dirty clothes were found throughout the residence. [It was determined that] L.A. was the subject of physical abuse, including an intracranial injury, cerebral hemorrhage, symmetric bruising on both arms, a bruise inside the ear, acute rib fracture, substantial bruising of the hip, blood in the rectum, and trauma to the lower torso.

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[1] We cite to our two prior opinions in this matter. We take judicial notice of *In re R.G.-B.* (May 31, 2017, A150086) [nonpub. opn.] and *M.B. v. Superior Court* (Jan. 26, 2018, A152742 [nonpub. opn.].) (Evid. Code, § 452, subd. (d).) Citation of our prior nonpublished opinions is permitted by California Rules of Court, rule 8.1115(b)(1) "to explain the factual background of the case and not as legal authority." (*Pacific Gas & Electric Co. v. City and County of San Francisco* (2012) 206 Cal.App.4th 897, 907, fn. 10; *The Utility Reform Network v. Public Utilities Com.* (2014) 223 Cal.App.4th 945, 951, fn. 3; *Conrad v. Ball Corp.* (1994) 24 Cal.App.4th 439, 443–444, fn. 2 [discussing Cal. Rules of Court, former rule 977].)

[2] Mother's children are R.G.-B., E.G.-B., and G.P.-B. L.A. is not Mother's child but was under her care at the time of the hospitalization. G.P.-B.'s father, G.P., is not a party to this appeal.

"Mother denied allegations of physical abuse towards the three minors in this case, as well as L.A. She represented that on June 29, 2016, L.A. fell down the stairs and Mother took her to the hospital. She admitted the home was messy and unkempt, but this situation was the result of a remodeling in the home. Regarding L.A.'s fall, Mother stated that on June 29, she was home with the children. She went to the bathroom and when she returned to the area where the minors were located, she noticed L.A. had pushed her toy stroller outside the front door and slipped down the stairs. The other bruises observed on L.A. were caused by prior falls and slow healing.

"[¶]

"On June 30, 2016, R.G.-B. was questioned by the staff at Child Abuse Listening, Interviewing and Coordination Center (CALICO). The minor stated he sleeps on the top bunk and that L.A. sleeps on the lower bunk. The minor did not see L.A. fall down the stairs. He also indicated L.A. occasionally sleepwalks, falls, and vomits in the home. He recalled L.A. had fallen from his mom's bed and passed out. At the time of this fall, Mother was in the kitchen speaking with a man about getting 'ice.' R.G.-B. stated his mom and 'uncle' sell 'ice' night and day, with the cash from the sales placed in boxes in the home. The minor described 'ice' as small and white in little bags kept in the garage. On at least one instance, 'robbers' came to the home looking for the white powder. He has seen physical abuse toward L.A., as well as assault between his mother and father.

"On the same day, E.G.-B. was also interviewed. While she said she was 5, in fact, she was 3. She stated three separate times during the interview that Mother hit L.A. with her foot to the child's head. She also saw Mother hit L.A. in the stomach and chest.

"The Agency on this day also spoke with Dr. Crawford at Children's Hospital in Alameda County. He stated that L.A.'s intracranial injury and cerebral hemorrhage were not consistent with a child falling. Instead, the hemorrhage was more consistent with the extreme shaking of the child. The symmetric bruises on L.A.'s arms were like fingerprints where the child had been lifted and held. The doctor said the bruise inside L.A.'s ear was uncommon and a point of concern. Her recent rib fracture was consistent with being punched, kicked, or knelt on by a heavier person. The bruising he saw on the

child's hip was also not compatible with falling. Finally, Dr. Crawford stated that additional injuries he had diagnosed, which included a broken pelvis ball socket, bleeding in the rectal area, and bleeding around the brain, were not caused by slipping down the stairs or falling off a bed.

"[¶]

"On July 5, 2016, the Agency filed its petition under [Welfare and Institutions Code] section 300, subdivisions (b), (g), and (j).[3]

"[¶]

"On July 6, 2016, the court detained all the minors.

". . . On July 7, 2016, Mother was arrested and charged with child corporal punishment, a felony violation of Penal Code section 273d, subdivision (a). As a result of the arrest, a protective order was issued.

"[¶] . . . [¶]

"On December 13, 2016, the dependency court admitted the Agency's reports. The matter was submitted. The court . . . declared the minors dependents of the court. The court further found that reasonable services had been offered, and placed the minors out of the home."[4] (*In re R.G.-B.*, *supra*, A150086, fn. omitted.)

"On December 21, 2016, the Agency filed an amended section 300 petition as to Mother's three children." (*M.B. v. Superior Court*, *supra*, A152742)

On March 21, 2017, G.P.-B. was placed with his half sister L.A. in a licensed foster home. His caregiver reported that she enjoyed having him in her home and felt connected to him. However, she was having difficulty with L.A., and stated she was not willing to keep them both long term.

"On May 25, 2017, the Agency filed a status review report as to Mother's children. The Agency recommended that the children remain dependents of the court and

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[3] All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

[4] Mother appealed the court's order for supervised visitation. We affirmed. (*In re R.G.-B.*, *supra*, A150086.)

in their out-of-home placements. The Agency also requested that family reunification services be continued to all parents. The social worker had made a referral for Mother to obtain a psychological evaluation, requesting a Spanish-speaking evaluator. Mother was taking anger management classes, and was consistently attending therapy to address the removal of her children. However, the issue of the abuse to L.A. had not often been discussed in depth at therapy. Mother reportedly would maintain that she did not hurt the child and then would refuse to talk about it." (*M.B. v. Superior Court*, *supra*, A152742.)

II. Termination of Reunification Services and Request for Relative Placement

"On August 21, 2017, the Agency filed a status review report as to Mother's three children recommending that the minors remain dependents of the court and in their out-of-home placements. It also requested that reunification services to all three parents be terminated and that a section 366.26 hearing be set to free the children for adoption. It was noted that Mother and G.P. had recently become parents of a baby boy. As of August 2, 2017, they were reportedly still living together. G.P. had been having therapeutic visitation with L.A. and G.P.-B. since May 5, 2017." (*M.B. v. Superior Court*, *supra*, A152742.)

Reportedly, Mother stated in July 2017 that she could not identify any relatives or fictive family to provide placement for the children. On August 17, 2017, however, Mother gave the Agency contact information for the maternal grandmother who lived in Mexico. In a subsequent report, the Agency indicated it had contacted the maternal grandmother, who was in the process of getting a visa to come to the United States. On September 19, 2017, Mother asked that a maternal great-aunt, S.B., be assessed for placement of G.P.-B. A social worker spoke to S.B. and discussed the resource family approval process and her commitment to the child. S.B. stated that she lived in Oregon and would be willing to care for the boy until he turned 18 years old. She said she wanted to come to California to begin visiting G.P.-B. soon. The social worker was reportedly gathering information to begin the Interstate Compact on the Placement of Children approval process.

"The 12-month contested review hearings for both dependency proceedings [concerning L.A. and Mother's three children] were held on October 16 and 17, 2017. The Agency again requested that family reunification services be terminated and that a section 366.26 hearing be set to free the children for adoption. [¶] As to the case involving Mother's three children, the social worker testified that Mother had been complying with her individual therapy; however, she had not addressed the abuse to L.A. There still was an active restraining order against Mother with respect to L.A. Mother would be completing her anger management class at the end of the month. However, she had not complied with the requirement to undergo psychological testing. A Spanish-speaking person was available initially to do the testing, but Mother waited approximately a month and a half after getting the Agency's referral. . . . Eventually, Mother was provided with a referral to an independent psychologist and she had started testing the Friday before the hearing." (*M.B. v. Superior Court*, *supra*, A152742.)

"At the conclusion of the hearing, the [juvenile] court found there was not a substantial probability any of the children would be returned within 18 months because the parents had not made significant progress in resolving the problems that led to removal. Mother and G.P. had not addressed the abuse suffered by L.A. at the hands of Mother. . . . The court found that reasonable services had been offered or provided. Reunification services were ordered terminated and the parents were ordered to return for the section 366.26 hearing." (*M.B. v. Superior Court*, *supra*, A152742.)

On January 26, 2018, we filed our opinion addressing petitions for extraordinary writ filed by all three parents. (*M.B. v. Superior Court*, *supra*, A152742.) We denied the petitions on the merits. As to Mother, we concluded the Agency had provided reasonable services and that the juvenile court did not err in failing to move from supervised visitation.

III. Mother's Parental Rights Are Terminated

On January 23, 2018, the Agency filed its report recommending termination of the parental rights of Mother and G.P. and selecting adoption as the permanent plan for G.P.-B. The boy was described as "an energetic and active child" who enjoyed playing

with his half sister L.A. He was deemed adoptable, and did not have any medical, mental, or behavioral concerns that would preclude him from being adopted. A paternal aunt had applied for placement, but was deemed not to have an appropriate home. The Agency was searching for an adoptive home that could accommodate both children.

In an addendum report filed March 16, 2018, the Agency reported that G.P.-B. and L.A. had recently moved to a proposed adoptive home in a two-parent household located in a family-oriented community. The children appeared happy with their new home when the social worker visited, and reportedly were sleeping through the night.

Mother attended the originally scheduled section 366.26 hearing on February 7, 2018. She was not present at the continued hearing on March 23, 2018. G.P. advised the court he believed Mother had traveled to Mexico. On Mother's behalf, her attorney entered general objections to the proposed findings and orders, and a specific objection to the finding G.P.-B. was likely to be adopted. The juvenile court found the boy to be adoptable, terminated the parental rights of Mother and G.P., and ordered the boy placed for adoption.

DISCUSSION

On appeal, Mother asserts that her September 2017 request for placement with S.B. "should not have languished without resolution." She notes that S.B. had indicated her willingness to care for G.P.-B. until he reached adulthood. While the Agency had informed the juvenile court that it was initiating the home study process, it did not provide any follow-up information as to the status of this process. Citing to section 361.3,[5] Mother asserts the court should not have terminated her parental rights "without resolving this outstanding relative placement request, one made during a period when the agency agreed [G.P.-B.'s] placement should be changed." The Agency argues, and we agree, that Mother lacks standing to raise this claim.

[5] Section 361.3, subdivision (a) provides, in relevant part: "In any case in which a child is removed from the physical custody of his or her parents . . . , preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative, regardless of the relative's immigration status."

A parent retains a fundamental interest in his or her child's companionship, custody, management, and care until parental rights are terminated. (*In re H.G.* (2006) 146 Cal.App.4th 1, 9–10.) This interest is a compelling one, ranked among the most basic of civil rights. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 306.) For this reason, one of the primary goals of the juvenile court law is to preserve familial relationships, if possible. (§ 202, subd. (a).) The relative placement provisions in section 361.3 apply when a child is taken from his parents and placed outside the home *pending the determination whether reunification is possible*. (*In re Sarah S.* (1996) 43 Cal.App.4th 274, 285.) A relative, who presumably has a broader interest in family unity, is more likely than a stranger to be supportive of the parent-child relationship, and less likely to develop a conflicting emotional bond with the child. (*Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1032 (*Cesar V.*).)

In determining whether a parent is aggrieved by the juvenile court's order declining placement with a relative, we must precisely identify the parent's interest in the matter. (*In re K.C.* (2011) 52 Cal.4th 231, 236.)[6] When parental rights have not yet been terminated, placement of a child with a relative has the potential to alter the juvenile court's determination of the child's best interests and the appropriate permanency plan for the child, and may affect the parent's interest in his or her legal status with respect to the child. (*In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1054.) But when a parent's reunification services have been bypassed or terminated, " 'the parents' interest in the care, custody and companionship of the child [is] no longer paramount. Rather, at this point, "the focus shifts to the needs of the child for permanency and stability . . . ." ' " (*In re K.C.*, at p. 236.) Accordingly, a parent generally lacks standing to raise issues relating to the child's placement after reunification services are terminated because resolution of

[6] We recognize the juvenile court here did not issue a placement order at the same hearing in which it found G.P.-B. adoptable and terminated Mother's parental rights. Mother raises a slightly different argument, that the court should have addressed her pending placement request before terminating the parental relationship. We analyze the standing question the same way, by examining what particular interest did Mother have at the section 366.26 hearing in placement of G.P.-B. with a relative.

those issues will have no effect on reunification. (*Cesar V., supra,* 91 Cal.App.4th at p. 1035; see *In re Jayden M*. (2014) 228 Cal.App.4th 1452, 1460.)

A parent who appeals from a judgment terminating parental rights *may* challenge an order concerning the dependent child's placement, but only if the placement order's reversal advances the parent's argument against terminating parental rights. (*In re K.C., supra,* 52 Cal.4th at p. 238.) If the parent does not otherwise challenge the judgment terminating parental rights—such as the finding of adoptability or by seeking to establish a statutory exception to the preference for adoption—he or she lacks standing to contest the juvenile court's denial of placement with the child's relatives. (*Id.* at p. 237.)

Here, Mother's reunification services were terminated within three weeks of her request that the minor be placed with S.B. The record discloses that Mother delayed in proposing any relative for placement of the minor. It was not until August 17, 2017 that she provided contact information for the maternal grandmother, and September 19, 2017 that she proposed S.B. as an alternative. The record is silent whether, at this late stage of the proceedings, the Agency could have completed an out-of-state home assessment under a shortened timeframe. But that is of no moment, because when reunification services terminated, Mother's interest in where the child would be placed ended as well.[7] Mother therefore cannot establish that her rights and interest in reunification are injuriously affected by the court's failure to consider S.B. for placement at the section 366.26 hearing, from which she has filed this appeal.

Mother argues that the placement issue is "tied directly to the issue of [G.P.-B.'s] adoptability." But Mother does not contend on appeal that the order terminating her

[7] We also note that the preference for relative placement does not apply to an adoptive placement. (*In re K.L.* (2016) 248 Cal.App.4th 52, 65–66.) Once the juvenile court has determined that reunification is no longer possible, the most pronounced reason for trying to maintain family ties ends as well. (*Samantha T. v. Superior Court* (2011) 197 Cal.App.4th 94, 113.) Relative placement preference does not supersede the overriding concern of promoting the child's best interests, whose bond with a foster parent may require rejection of placement of the child with a relative. (*In re Lauren R.* (2007) 148 Cal.App.4th 841, 854–855.)

parental rights was improper in any respect. She thus has no remaining, legally cognizable interest in G.P.-B.'s affairs, including his placement.[8]

DISPOSITION

The appeal is dismissed.

[8] Because we conclude that Mother lacks standing to maintain this appeal, we have no occasion to address whether her arguments were forfeited.

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SANCHEZ, J.

WE CONCUR:

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HUMES, P. J.

_____
BANKE, J.

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In re R.G.-B.